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Rock judge serves on hush-hush spy court in D.C.

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Federal Judge Frank McGarr, who recently ordered the shutdown of the Rock Island Lines in his Chicago courtroom, is one of seven elite members of the federal court system who has power to approve government spy requests.

The powers of this little-known, super-secret court could be broadened under a new Central Intelligence Agency charter introduced in the Senate Friday.

THE AMERICAN intelligence community, which includes at least 10 spy agencies, was the butt of abuse after disclosures that President Nixon and/or his aides had ordered the CIA, FBI and other spying operations to bug, wiretap or conduct breakins on such people as Dr. Martin Luther King Jr. and many others considered "threats" to themselves or to the nation.

One of the results was the creation in 1978 of a seven-member court to review the government's need for "spy and pry" operations. It assures that "civil liberties are not bargained away in the name of national security," said Sen. Edward Kennedy, D-Mass.

In cases of approval, special warrants are issued,

good for 90 days of spying and in some cases, up to one year.

THE INVASION of Afghanistan by the Soviet Union, and the unstable political situation in Iran and in the Persian Gulf has given way to a feeling that President Carter said amounts to "unwarranted restraints" on U.S. intelligence operations.

HOW FAR THE special court should go in permitting so-called "black-bag jobs" and other intrusions isn't clear. It falls in a gray area between Constitutional protection and the need to protect national security.

The new charter proposed Friday broadens the scope and jurisdiction of that court considerably.

"What this is saying is that they can burglarize your home and open mail if they convince a secret court you're an agent of a foreign power, but they never tell you that your papers have been copied or taken,"

charged Jerry J. Berman, counsel to the American Civil Liberties Union.

He said the group supports a charter for the CIA, setting forth for the first time a list of dos and don'ts, but that intrusions on Americans in the United States goes beyond Fourth Amendment protections against unreasonable searches and seizures.

UNDER A 1978 foreign intelligence law, Chief Justice Warren Burger of the Supreme Court named seven federal judges to hear and approve spy applications.

"The court does not act with all seven members," said one of its members, Federal Judge George L. Hart Jr. of Washington, who also doubles as the presiding judge. "Each member of the court acts individually" on a rotating basis. Judge McGarr in Chicago might be on 24-hour call for a week or several weeks to hear urgent requests.

Cases are heard in a soundproof room in the Federal Court Building along Constitution Ave. in Washington, just a few hundred yards from the U.S. Capitol. It has a very small staff, and all clerks and judges have top security clearances.

Beyond that, little is known of the special court, less than a year old.

"WE DON'T know how many times the court has met, how many petitions from the government they've considered, or in fact what they've done," complained Alan Adler, legislative counsel for National Security Studies, a civil rights group. "We have no way of knowing whether the government is justified

in its use of spying."

Judges "have got to be available at any time, simply by the nature of the business," said a CIA official, who asked not to be identified.

Judges hear requests from not only the CIA and FBI, but also the Defense Intelligence Agency, National Security Agency, intelligence branches of the Army, Navy, Air Force and the intelligence arms of the State, Energy and Treasury Departments.

Under current procedure, an American suspected of being a spy for a foreign government can be wiretapped if authorized by the special court.

The new charter would permit wiretapping of Americans in the United States as well as breakins, mail opening and the like if approved by the court.